

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILLS NOS. 453 & 24**  
95TH GENERAL ASSEMBLY

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Reported from the Committee on Education, April 2, 2009, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 160.534, 163.011, 163.043, 313.775, 313.778, and 313.822, RSMo, and to enact in lieu thereof four new sections relating to education funding, with an effective date for a certain section and an emergency clause.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 160.534, 163.011, 163.043, 313.775, 313.778, and  
2 313.822, RSMo, are repealed and four new sections enacted in lieu thereof, to be  
3 known as sections 160.534, 163.011, 163.043, and 313.822, to read as follows:

160.534. 1. For fiscal year 1996 and each subsequent fiscal year, any  
2 amount of the excursion gambling boat proceeds deposited in the gaming proceeds  
3 for education fund in excess of the amount transferred to the school district bond  
4 fund as provided in section 164.303, RSMo, shall be transferred to the classroom  
5 trust fund. Such moneys shall be distributed in the manner provided in section  
6 163.043, RSMo.

7 2. Starting in fiscal year 2009, and for each subsequent fiscal year, all  
8 excursion gambling boat proceeds deposited in the gaming proceeds for education  
9 fund in excess of the amount transferred to the classroom trust fund for fiscal  
10 year 2008 plus the amount appropriated to the school district bond fund in  
11 accordance with section 164.303, RSMo, shall be deposited into the schools first  
12 elementary and secondary education improvement fund. **The provisions of this**  
13 **subsection shall terminate on July 1, 2010.**

14 3. The amounts deposited in the schools first elementary and secondary  
15 education improvement fund pursuant to this section shall constitute new and  
16 additional funding for elementary and secondary education and shall not be used  
17 to replace existing funding provided for elementary and secondary

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 education. **The provisions of this subsection shall terminate on July 1,**  
19 **2009.**

163.011. As used in this chapter unless the context requires otherwise:

2 (1) "Adjusted operating levy", the sum of tax rates for the current year for  
3 teachers' and incidental funds for a school district as reported to the proper  
4 officer of each county pursuant to section 164.011, RSMo;

5 (2) "Average daily attendance", the quotient or the sum of the quotients  
6 obtained by dividing the total number of hours attended in a term by resident  
7 pupils between the ages of five and twenty-one by the actual number of hours  
8 school was in session in that term. To the average daily attendance of the  
9 following school term shall be added the full-time equivalent average daily  
10 attendance of summer school students. "Full-time equivalent average daily  
11 attendance of summer school students" shall be computed by dividing the total  
12 number of hours, except for physical education hours that do not count as credit  
13 toward graduation for students in grades nine, ten, eleven, and twelve, attended  
14 by all summer school pupils by the number of hours required in section 160.011,  
15 RSMo, in the school term. For purposes of determining average daily attendance  
16 under this subdivision, the term "resident pupil" shall include all children  
17 between the ages of five and twenty-one who are residents of the school district  
18 and who are attending kindergarten through grade twelve in such district. If a  
19 child is attending school in a district other than the district of residence and the  
20 child's parent is teaching in the school district or is a regular employee of the  
21 school district which the child is attending, then such child shall be considered  
22 a resident pupil of the school district which the child is attending for such period  
23 of time when the district of residence is not otherwise liable for tuition. Average  
24 daily attendance for students below the age of five years for which a school  
25 district may receive state aid based on such attendance shall be computed as  
26 regular school term attendance unless otherwise provided by law;

27 (3) "Current operating expenditures":

28 (a) For the fiscal year 2007 calculation, "current operating expenditures"  
29 shall be calculated using data from fiscal year 2004 and shall be calculated as all  
30 expenditures for instruction and support services except capital outlay and debt  
31 service expenditures minus the revenue from federal categorical sources; food  
32 service; student activities; categorical payments for transportation costs pursuant  
33 to section 163.161; state reimbursements for early childhood special education;  
34 the career ladder entitlement for the district, as provided for in sections 168.500

35 to 168.515, RSMo; the vocational education entitlement for the district, as  
36 provided for in section 167.332, RSMo; and payments from other districts;

37 (b) In every fiscal year subsequent to fiscal year 2007, current operating  
38 expenditures shall be the amount in paragraph (a) **of this subdivision** plus any  
39 increases in state funding pursuant to sections 163.031 and 163.043 subsequent  
40 to fiscal year 2005, not to exceed five percent, per recalculation, of the state  
41 revenue received by a district in the 2004-05 school year from the foundation  
42 formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and  
43 free textbook payments for any district from the first preceding calculation of the  
44 state adequacy target. **Beginning on July 1, 2010, current operating**  
45 **expenditures shall be the amount in paragraph (a) of this subdivision**  
46 **plus any increases in state funding pursuant to sections 163.031 and**  
47 **163.043 subsequent to fiscal year 2005 received by a district in the**  
48 **2004-05 school year from the foundation formula, line 14, gifted,**  
49 **remedial reading, exceptional pupil aid, fair share, and free textbook**  
50 **payments for any district from the first preceding calculation of the**  
51 **state adequacy target;**

52 (4) "District's tax rate ceiling", the highest tax rate ceiling in effect  
53 subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling  
54 shall not contain any tax levy for debt service;

55 (5) "Dollar-value modifier", an index of the relative purchasing power of  
56 a dollar, calculated as one plus fifteen percent of the difference of the regional  
57 wage ratio minus one, provided that the dollar value modifier shall not be applied  
58 at a rate less than 1.0:

59 (a) "County wage per job", the total county wage and salary disbursements  
60 divided by the total county wage and salary employment for each county and the  
61 city of St. Louis as reported by the Bureau of Economic Analysis of the United  
62 States Department of Commerce for the fourth year preceding the payment year;

63 (b) "Regional wage per job":

64 a. The total Missouri wage and salary disbursements of the metropolitan  
65 area as defined by the Office of Management and Budget divided by the total  
66 Missouri metropolitan wage and salary employment for the metropolitan area for  
67 the county signified in the school district number or the city of St. Louis, as  
68 reported by the Bureau of Economic Analysis of the United States Department  
69 of Commerce for the fourth year preceding the payment year and recalculated  
70 upon every decennial census to incorporate counties that are newly added to the

71 description of metropolitan areas; or if no such metropolitan area is established,  
72 then:

73           b. The total Missouri wage and salary disbursements of the micropolitan  
74 area as defined by the Office of Management and Budget divided by the total  
75 Missouri micropolitan wage and salary employment for the micropolitan area for  
76 the county signified in the school district number, as reported by the Bureau of  
77 Economic Analysis of the United States Department of Commerce for the fourth  
78 year preceding the payment year, if a micropolitan area for such county has been  
79 established and recalculated upon every decennial census to incorporate counties  
80 that are newly added to the description of micropolitan areas; or

81           c. If a county is not part of a metropolitan or micropolitan area as  
82 established by the Office of Management and Budget, then the county wage per  
83 job, as defined in paragraph (a) of this subdivision, shall be used for the school  
84 district, as signified by the school district number;

85           (c) "Regional wage ratio", the ratio of the regional wage per job divided by  
86 the state median wage per job;

87           (d) "State median wage per job", the fifty-eighth highest county wage per  
88 job;

89           (6) "Free and reduced lunch pupil count", the number of pupils eligible for  
90 free and reduced lunch on the last Wednesday in January for the preceding school  
91 year who were enrolled as students of the district, as approved by the department  
92 in accordance with applicable federal regulations;

93           (7) "Free and reduced lunch threshold" shall be calculated by dividing the  
94 total free and reduced lunch pupil count of every performance district that falls  
95 entirely above the bottom five percent and entirely below the top five percent of  
96 average daily attendance, when such districts are rank-ordered based on their  
97 current operating expenditures per average daily attendance, by the total average  
98 daily attendance of all included performance districts;

99           (8) **"Gifted education pupil count", the number of pupils who**  
100 **qualify as "gifted" under the definition of "gifted children" in section**  
101 **162.675, RSMo, and who are enrolled in a gifted education program**  
102 **provided by the district on the last Wednesday in January for the**  
103 **immediately preceding academic year but not to exceed five percent of**  
104 **the district's immediately preceding academic year enrollment;**  
105 **provided that this subdivision shall not be construed to limit any**  
106 **district from identifying or in any manner providing gifted education**

107 **services to more than five percent of the district's enrolled pupils;**

108 **(9)** "Limited English proficiency pupil count", the number in the preceding  
109 school year of pupils aged three through twenty-one enrolled or preparing to  
110 enroll in an elementary school or secondary school who were not born in the  
111 United States or whose native language is a language other than English or are  
112 Native American or Alaskan native, or a native resident of the outlying areas,  
113 and come from an environment where a language other than English has had a  
114 significant impact on such individuals' level of English language proficiency, or  
115 are migratory, whose native language is a language other than English, and who  
116 come from an environment where a language other than English is dominant; and  
117 have difficulties in speaking, reading, writing, or understanding the English  
118 language sufficient to deny such individuals the ability to meet the state's  
119 proficient level of achievement on state assessments described in Public Law  
120 107-10, the ability to achieve successfully in classrooms where the language of  
121 instruction is English, or the opportunity to participate fully in society;

122 **[(9)] (10)** "Limited English proficiency threshold" shall be calculated by  
123 dividing the total limited English proficiency pupil count of every performance  
124 district that falls entirely above the bottom five percent and entirely below the  
125 top five percent of average daily attendance, when such districts are rank-ordered  
126 based on their current operating expenditures per average daily attendance, by  
127 the total average daily attendance of all included performance districts;

128 **[(10)] (11)** "Local effort":

129 (a) For the fiscal year 2007 calculation, "local effort" shall be computed as  
130 the equalized assessed valuation of the property of a school district in calendar  
131 year 2004 divided by one hundred and multiplied by the performance levy less the  
132 percentage retained by the county assessor and collector plus one hundred  
133 percent of the amount received in fiscal year 2005 for school purposes from  
134 intangible taxes, fines, escheats, payments in lieu of taxes and receipts from  
135 state-assessed railroad and utility tax, one hundred percent of the amount  
136 received for school purposes pursuant to the merchants' and manufacturers' taxes  
137 under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts  
138 received for school purposes from federal properties under sections 12.070 and  
139 12.080, RSMo, except when such amounts are used in the calculation of federal  
140 impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues  
141 received for school purposes from the school district trust fund under section  
142 163.087, and one hundred percent of any local earnings or income taxes received

143 by the district for school purposes. Under this paragraph, for a special district  
144 established under sections 162.815 to 162.940, RSMo, in a county with a charter  
145 form of government and with more than one million inhabitants, a tax levy of zero  
146 shall be utilized in lieu of the performance levy for the special school district;

147 (b) In every year subsequent to fiscal year 2007, "local effort" shall be the  
148 amount calculated under paragraph (a) of this subdivision plus any increase in  
149 the amount received for school purposes from fines. If a district's assessed  
150 valuation has decreased subsequent to the calculation outlined in paragraph (a)  
151 of this subdivision, the district's local effort shall be calculated using the district's  
152 current assessed valuation in lieu of the assessed valuation utilized in **the**  
153 calculation outlined in paragraph (a) of this subdivision;

154 ~~[(11)]~~ **(12)** "Membership" shall be the average of:

155 (a) The number of resident full-time students and the full-time equivalent  
156 number of part-time students who were enrolled in the public schools of the  
157 district on the last Wednesday in September of the previous year and who were  
158 in attendance one day or more during the preceding ten school days; and

159 (b) The number of resident full-time students and the full-time equivalent  
160 number of part-time students who were enrolled in the public schools of the  
161 district on the last Wednesday in January of the previous year and who were in  
162 attendance one day or more during the preceding ten school days, plus the  
163 full-time equivalent number of summer school pupils. "Full-time equivalent  
164 number of part-time students" is determined by dividing the total number of  
165 hours for which all part-time students are enrolled by the number of hours in the  
166 school term. "Full-time equivalent number of summer school pupils" is  
167 determined by dividing the total number of hours for which all summer school  
168 pupils were enrolled by the number of hours required pursuant to section  
169 160.011, RSMo, in the school term. Only students eligible to be counted for  
170 average daily attendance shall be counted for membership;

171 ~~[(12)]~~ **(13)** "Operating levy for school purposes", the sum of tax rates  
172 levied for teachers' and incidental funds plus the operating levy or sales tax  
173 equivalent pursuant to section 162.1100, RSMo, of any transitional school district  
174 containing the school district, in the payment year, not including any equalized  
175 operating levy for school purposes levied by a special school district in which the  
176 district is located;

177 ~~[(13)]~~ **(14)** "Performance district", any district that has met all  
178 performance standards and indicators as established by the department of

179 elementary and secondary education for purposes of accreditation under section  
180 161.092, RSMo, and as reported on the final annual performance report for that  
181 district each year;

182        [(14)] **(15)** "Performance levy", three dollars and forty-three cents;

183        [(15)] **(16)** "School purposes" pertains to teachers' and incidental funds;

184        [(16)] **(17)** "Special education pupil count", the number of public school  
185 students with a current individualized education program and receiving services  
186 from the resident district as of December first of the preceding school year, except  
187 for special education services provided through a school district established under  
188 sections 162.815 to 162.940, RSMo, in a county with a charter form of government  
189 and with more than one million inhabitants, in which case the sum of the  
190 students in each district within the county exceeding the special education  
191 threshold of each respective district within the county shall be counted within the  
192 special district and not in the district of residence for purposes of distributing the  
193 state aid derived from the special education pupil count;

194        [(17)] **(18)** "Special education threshold" shall be calculated by dividing  
195 the total special education pupil count of every performance district that falls  
196 entirely above the bottom five percent and entirely below the top five percent of  
197 average daily attendance, when such districts are rank-ordered based on their  
198 current operating expenditures per average daily attendance, by the total average  
199 daily attendance of all included performance districts;

200        [(18)] **(19)** "State adequacy target", the sum of the current operating  
201 expenditures of every performance district that falls entirely above the bottom  
202 five percent and entirely below the top five percent of average daily attendance,  
203 when such districts are rank-ordered based on their current operating  
204 expenditures per average daily attendance, divided by the total average daily  
205 attendance of all included performance districts [plus the total amount of funds  
206 placed in the schools first elementary and secondary education improvement fund  
207 in the preceding fiscal year divided by the total average daily attendance of all  
208 school districts for the preceding fiscal year]. The department of elementary and  
209 secondary education shall first calculate the state adequacy target for fiscal year  
210 2007 and recalculate the state adequacy target every two years using the most  
211 current available data[; provided that the state adequacy target shall be  
212 recalculated every year to reflect the per-pupil amount of funds placed in the  
213 schools first elementary and secondary education improvement fund in the  
214 preceding fiscal year]. The recalculation shall never result in a decrease from the

215 previous state adequacy target amount. Should a recalculation result in an  
216 increase in the state adequacy target amount, fifty percent of that increase shall  
217 be included in the state adequacy target amount in the year of recalculation, and  
218 fifty percent of that increase shall be included in the state adequacy target  
219 amount in the subsequent year. The state adequacy target may be adjusted to  
220 accommodate available appropriations;

221 ~~[(19)]~~ **(20)** "Teacher", any teacher, teacher-secretary, substitute teacher,  
222 supervisor, principal, supervising principal, superintendent or assistant  
223 superintendent, school nurse, social worker, counselor or librarian who shall,  
224 regularly, teach or be employed for no higher than grade twelve more than  
225 one-half time in the public schools and who is certified under the laws governing  
226 the certification of teachers in Missouri;

227 ~~[(20)]~~ **(21)** "Weighted average daily attendance", the average daily  
228 attendance plus the product of twenty-five hundredths multiplied by the free and  
229 reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus  
230 the product of seventy-five hundredths multiplied by the number of special  
231 education pupil count that exceeds the special education threshold, ~~[and]~~ plus the  
232 product of six-tenths multiplied by the number of limited English proficiency  
233 pupil count that exceeds the limited English proficiency threshold, **and**  
234 **beginning July 1, 2010, plus the product of twenty-five hundredths**  
235 **multiplied by the number of the district's gifted education pupil**  
236 **count.** For special districts established under sections 162.815 to 162.940,  
237 RSMo, in a county with a charter form of government and with more than one  
238 million inhabitants, weighted average daily attendance shall be the average daily  
239 attendance plus the product of twenty-five hundredths multiplied by the free and  
240 reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus  
241 the product of seventy-five hundredths multiplied by the sum of the special  
242 education pupil count that exceeds the threshold for each county district, plus the  
243 product of six-tenths multiplied by the limited English proficiency pupil count  
244 that exceeds the limited English proficiency threshold. None of the districts  
245 comprising a special district established under sections 162.815 to 162.940,  
246 RSMo, in a county with a charter form of government and with more than one  
247 million inhabitants, shall use any special education pupil count in calculating  
248 their weighted average daily attendance.

163.043. 1. For fiscal year 2007 and each subsequent fiscal year, the  
2 "Classroom Trust Fund", which is hereby created in the state treasury, shall be

3 distributed by the state board of education to each school district in this state  
4 qualified to receive state aid pursuant to section 163.021 on an average daily  
5 attendance basis.

6 2. The moneys distributed pursuant to this section shall be spent at the  
7 discretion of the local school district. The moneys may be used by the district for:

8 (1) Teacher recruitment, retention, salaries, or professional development;

9 (2) School construction, renovation, or leasing;

10 (3) Technology enhancements or textbooks or instructional materials;

11 (4) School safety; or

12 (5) Supplying additional funding for required programs, both state and  
13 federal.

14 3. The classroom trust fund shall consist of all moneys transferred to it  
15 under section 160.534, RSMo, all moneys otherwise appropriated or donated to  
16 it, and, notwithstanding any other provision of law to the contrary, all unclaimed  
17 lottery prize money.

18 4. The provisions of this section shall not apply to any option district as  
19 defined in section 163.042.

20 **5. For the 2010-2011 school year and for each subsequent year,**  
21 **all proceeds a school district receives from the classroom trust fund in**  
22 **excess of the amount the district received from the classroom trust**  
23 **fund in the 2009-2010 school year shall be placed to the credit of the**  
24 **district's teachers' and incidental funds.**

313.822. A tax is imposed on the adjusted gross receipts received from  
2 gambling games authorized pursuant to sections 313.800 to 313.850 at the rate  
3 of twenty-one percent. The taxes imposed by this section shall be returned to the  
4 commission in accordance with the commission's rules and regulations who shall  
5 transfer such taxes to the director of revenue. All checks and drafts remitted for  
6 payment of these taxes and fees shall be made payable to the director of revenue.  
7 If the commission is not satisfied with the return or payment made by any  
8 licensee, it is hereby authorized and empowered to make an assessment of the  
9 amount due based upon any information within its possession or that shall come  
10 into its possession. Any licensee against whom an assessment is made by the  
11 commission may petition for a reassessment. The request for reassessment shall  
12 be made within twenty days from the date the assessment was mailed or  
13 delivered to the licensee, whichever is earlier. Whereupon the commission shall  
14 give notice of a hearing for reassessment and fix the date upon which the hearing

15 shall be held. The assessment shall become final if a request for reassessment  
16 is not received by the commission within the twenty days. Except as provided in  
17 this section, on and after April 29, 1993, all functions incident to the  
18 administration, collection, enforcement, and operation of the tax imposed by  
19 sections 144.010 to 144.525, RSMo, shall be applicable to the taxes and fees  
20 imposed by this section.

21 (1) Each excursion gambling boat shall designate a city or county as its  
22 home dock. The home dock city or county may enter into agreements with other  
23 cities or counties authorized pursuant to subsection 10 of section 313.812 to share  
24 revenue obtained pursuant to this section. The home dock city or county shall  
25 receive ten percent of the adjusted gross receipts tax collections, as levied  
26 pursuant to this section, for use in providing services necessary for the safety of  
27 the public visiting an excursion gambling boat. Such home dock city or county  
28 shall annually submit to the commission a shared revenue agreement with any  
29 other city or county. All moneys owed the home dock city or county shall be  
30 deposited and distributed to such city or county in accordance with rules and  
31 regulations of the commission. All revenues provided for in this section to be  
32 transferred to the governing body of any city not within a county and any city  
33 with a population of over three hundred fifty thousand inhabitants shall not be  
34 considered state funds and shall be deposited in such city's general revenue fund  
35 to be expended as provided for in this section.

36 (2) The remaining amount of the adjusted gross receipts tax shall be  
37 deposited in the state treasury to the credit of the "Gaming Proceeds for  
38 Education Fund" which is hereby created in the state treasury. Moneys deposited  
39 in this fund shall be kept separate from the general revenue fund as well as any  
40 other funds or accounts in the state treasury, shall be used solely for education  
41 pursuant to the Missouri Constitution and shall be considered the proceeds of  
42 excursion boat gambling and state funds pursuant to article IV, section 15 of the  
43 Missouri Constitution. All interest received on the gaming proceeds for education  
44 fund shall be credited to the gaming proceeds for education fund. Appropriation  
45 of the moneys deposited into the gaming proceeds for education fund shall be  
46 pursuant to state law.

47 (3) The state auditor shall perform an annual audit of the gaming  
48 proceeds for education fund [and the schools first elementary and secondary  
49 education improvement fund], which shall include the evaluation of whether  
50 appropriations for elementary and secondary education have increased and are

51 being used as intended [by this act]. The state auditor shall make copies of each  
52 audit available to the public and to the general assembly.

[313.775. This act shall be known and may be cited as "The  
2 Schools First Elementary and Secondary Education Funding  
3 Initiative".]

[313.778. There is hereby created in the state treasury the  
2 "Schools First Elementary and Secondary Education Improvement  
3 Fund", which shall consist of taxes on excursion gambling boat  
4 proceeds as provided in subsection 2 of section 160.534, RSMo, to  
5 be used solely for the purpose of increasing funding for elementary  
6 and secondary education. The schools first elementary and  
7 secondary education improvement fund shall be state revenues  
8 collected from gaming activities for purposes of article III, section  
9 39(d) of the constitution. Moneys in the schools first elementary  
10 and secondary education improvement fund shall be kept separate  
11 from the general revenue fund as well as any other funds or  
12 accounts in the state treasury. The state treasurer shall be  
13 custodian of the fund and may approve disbursements from the  
14 fund in accordance with sections 30.170 and 30.180,  
15 RSMo. Notwithstanding the provisions of section 33.080, RSMo, to  
16 the contrary, any moneys remaining in the fund at the end of the  
17 biennium shall not revert to the credit of the general revenue  
18 fund. The state treasurer shall invest moneys in the fund in the  
19 same manner as other funds are invested. Any interest and  
20 moneys earned on such investments shall be credited to the fund.]

Section B. The repeal of section 313.778 of this act shall become effective  
2 on July 1, 2010.

Section C. Because of the need to ensure adequate funding for our public  
2 schools, section A of this act is deemed necessary for the immediate preservation  
3 of the public health, welfare, peace and safety, and is hereby declared to be an  
4 emergency act within the meaning of the constitution, and section A of this act  
5 shall be in full force and effect on July 1, 2009, or upon its passage and approval,  
6 whichever occurs later.

✓